

Mayor

John Gunter

Council Members

District 1: Bill Steinke

District 2: Dan Sheppard

District 3: Tom Hayden

District 4: Patty L. Cummings

District 5: Robert M. Welsh

District 6: Keith E. Long

District 7: Jessica Cosden



1015 Cultural Park Blvd.
Cape Coral, FL

Interim City Manager

Michael Ilczyszyn

Deputy City Attorney

Brian R. Bartos

City Auditor

Andrea R. Russell

City Clerk

Kimberly Bruns

AGENDA
COMMITTEE OF THE WHOLE

May 31, 2023

9:00 AM

Council Chambers

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.
We will direct all comments to the issues. We will avoid personal attacks.

VIDEO

1. MEETING CALLED TO ORDER

A. MAYOR GUNTER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

A. MAYOR GUNTER, COUNCIL MEMBERS COSDEN,
CUMMINGS, HAYDEN, LONG, SHEPPARD, STEINKE,
WELSH

4. BUSINESS:

A. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters
concerning the City Government; 3 minutes per individual.

B. DISCUSSION

- (1) Public-Private Partnership Overview
- (2) Special Events
- (3) Protection of Public Water System Ordinance Updates
- (4) Yacht Club Ballroom Discussion

5. ROUND TABLE DISCUSSION

6. TIME AND PLACE OF FUTURE MEETINGS

- A. A Special Meeting (Attorney-Client Session) of the Cape Coral City Council is Scheduled for Wednesday, May 31, 2023, beginning at 1:00 p.m. in Council Chambers
- B. A Regular Meeting of the Cape Coral City Council is Scheduled for Wednesday, June 7, 2023, beginning at 9:00 a.m. in Council Chambers

7. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL COMMITTEE OF THE WHOLE AGENDA

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input may do so during the designated time at each meeting. No prior scheduling is necessary. All speakers must have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting. Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state or local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number:	B.(1)
Meeting Date:	5/31/2023
Item Type:	DISCUSSION

TITLE:

Public-Private Partnership Overview

REQUESTED ACTION:**SUMMARY EXPLANATION AND BACKGROUND:****STRATEGIC PLAN ALIGNMENT:**

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

Recommendations:**SOURCE OF ADDITIONAL INFORMATION:****FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department-

ATTACHMENTS:**Description**

1. Presentation

Type

Backup Material

Bryant Miller Olive



Public Private Partnerships (P3)
City of Cape Coral
May 31, 2023

Florida's P3 Law

- Chapter 2013-223, Laws of Fla., codified at § 255.065, Fla. Stat., “Public-private partnerships”
- **Does not define “public private partnership”**
- Defines “qualifying project” and “responsible public entity”
- Authorizes “unsolicited proposals”
- Supplemental to existing authority



P3s

What Are They?

“an arrangement under which private firms become involved in financing, designing, constructing, owning, or operating public facilities or services”

“contractual agreements between a public agency and a private entity that involve the private sector taking on additional project risks, such as design, construction, finance, long-term operation, and traffic revenue”

A Procurement Process?

A Financing Method?

A Project Delivery Method



FASAB Statement 49 (June 2016)

P3 Disclosure Characteristics

Conclusive: “You’re a P3 if you meet **any** one”

1. Conveyance or creation of a long-lived asset or long-term financing liability.
2. Government participates in, helps sponsor, or is party to an SPV, partnership, trust, etc.
3. The transaction covers significant portion of economic life of project or asset.
4. The principal arrangement is exempt from the FAR or OMB requirements.



FASAB Statement 49

P3 Disclosure Characteristics

Suggestive: “Maybe, maybe not” – View each characteristic in light of others.

1. A Value for Money analysis is performed.
2. The consideration or items given up in an arrangement or their value are not readily apparent.
3. Significant work force duties, activities, or knowledge are cross-shared between public and private sector P3 parties.



FASAB Statement 49

P3 Disclosure Characteristics

4. The focus is more on collaboration and informal, real-time, resolution processes as opposed to formal, contractual, administrative processes.
5. The government relies on either the private sector partner's or a third party's determination of a P3's performance or return on investment/equity, without performing its own verification of performance or return on investment/equity.



Who Is Acquiring What, from Whom, and with Whose Money?

Finance



Operate



Design



Maintain



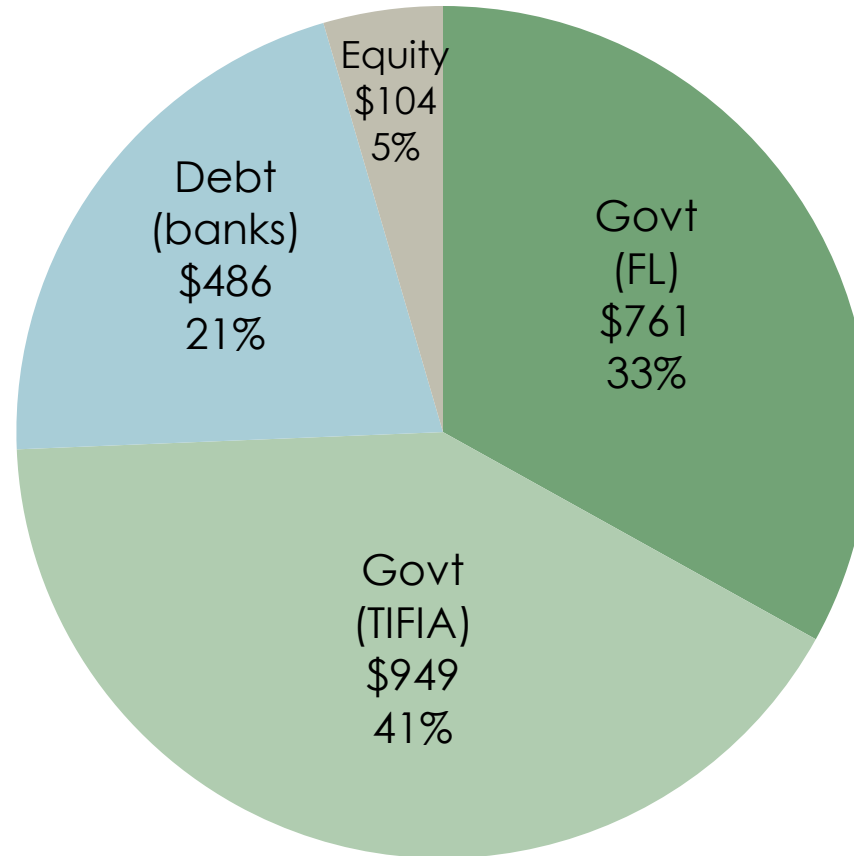
Build



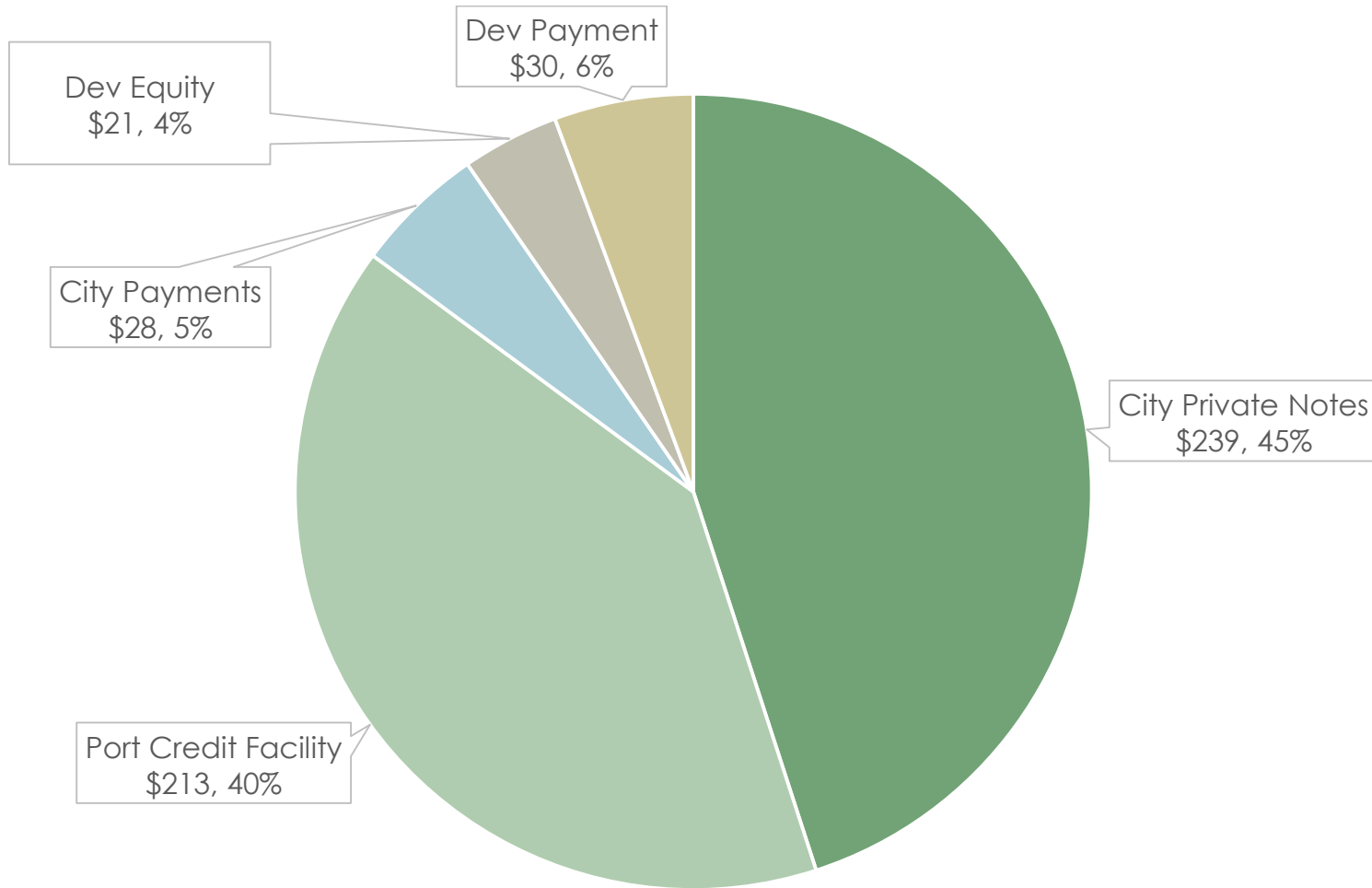
Own



I-4 (\$2,300M) Sep 2014



Long Beach Civic Center (\$531m) Apr 2016



Unsolicited Proposals



Versus

Unsolicited
Proposal

Desirable,
Qualifying
Project?

Advertise

Negotiate

Award?
Interim /
Comp.

Manage

Reasons to Use P3s

- P3s can be complex, politically challenging, expensive to procure.
Why bother?
- Four great advantages
 - Accelerated project delivery
 - Attract new capital
 - Private sector innovations, efficiencies, life cycle pricing
 - Risk allocation to best-suited party
- Focus on risk transfer and management to deliver “bankable” projects



Developing a P3 Contract and Preparing for a Long Term Relationship

Stages of a P3 delivery

- ❑ Identify scope and goals for the project
- ❑ Identify allocation of risks and rewards
- ❑ Negotiate agreements
- ❑ Live with what you created for 30 – 50 years (maybe)



Building the Foundation

- ❑ Spend time understanding the desired scope and goals and the allocation of risks and rewards
- ❑ Draft clear RFQ's and ITNs designed to outline
 - The desired scope and goals
 - The desired allocation of risk
- ❑ Draft clear agreements



Choosing the Right Partner

- ❑ Seek a private partner that will bring the best value to the project as opposed to the lowest bidder
- ❑ Know the partner, i.e., history of the organization, ownership and corporate structure
- ❑ Partners with no “skin in the game” have less motivation than partners with something to lose
- ❑ Select a partner to share project risks as well as rewards, and let it bear the risks it is better able to manage



Partner Criteria Checklist

- ✓ Financial capacity
- ✓ Acceptance of risk transfer
- ✓ Demonstrated experience in delivery of similar projects
- ✓ Demonstrated experience in working with similar governments
- ✓ Capacity to deliver the required quantity and quality of project/services
- ✓ Proposed infrastructure & end of term treatment
- ✓ Proposed timelines for the project
- ✓ Additional resources and capacity



Negotiation Foundations

- ❑ From the outset, memorialize the underlying business arrangement and goals of the City
- ❑ Both negotiating teams should agree to a framework for final negotiations



General Considerations

- Rights and obligations of parties clearly stated
- Representations and warranties
- Financial requirements
- Priority of cash flows and each parties' position of interest in collateral
- Procedures for resolving disputes
- Indemnification
- Legislatively mandated clauses, (i.e. Sovereign Immunity, Subject to Appropriation)
- Conditions Precedent



General Considerations

- Force Majeure
- Termination
- Change Orders
- Deemed Approval versus Deemed Rejection
- Liquidated Damages
- Reporting Requirements
- Audit Rights



Remedial Options

Ensure that, should there be problems, the lenders or equity partners have the power to take action, with an understanding of:

- Who is their recourse counterparty, if any?
- Is there a leasehold mortgage and/or a right to foreclose on an asset for the remaining term of the ground lease?
- If so, what arrangements are not disturbed via subordination to the lender?



Remedial Options

- Clear provisions governing how the City can unwind the project
- Termination for Convenience – City's Buy Out Rights
- Step-in Rights of the City in the event operational issues arise
- Control over the removal of the manager



City Support Provisions

- Careful consideration of “support” provisions
- Does the structure of the financing arrangement create a direct, indirect, or moral obligation of the City in the eyes of accounting advisors and/or rating agencies?
- Investment bankers love sponsor support to improve ratings



Thank You!

Bryant Miller Olive
kartin@bmolaw.com
fspringer@bmolaw.com





AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number:	B.(2)
Meeting Date:	5/31/2023
Item Type:	DISCUSSION

TITLE:

Special Events

REQUESTED ACTION:

Informational

SUMMARY EXPLANATION AND BACKGROUND:**STRATEGIC PLAN ALIGNMENT:**

1. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

CITY SERVICES AND AMENITIES: DELIVER EXCEPTIONAL CITY SERVICES AND HIGH-QUALITY AMENITIES

Recommendations:**SOURCE OF ADDITIONAL INFORMATION:****FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

1. Will this action result in a Budget Amendment?

PREPARED BY:

Danielle	Division-	Parks	Department-	Parks and
Beatty		Administration		Recreation

ATTACHMENTS:

Description	Type
1. Special Events in Cape Coral	Backup Material



SPECIAL EVENTS
COMMITTEE OF THE WHOLE
MAY 31, 2023



THIS IS WHAT WE DO!

CITY PRODUCED EVENTS

CITY SUPPORTED EVENTS

INDEPENDENT





SPECIAL EVENTS COMMITTEE OF THE WHOLE

MARCH 23, 2023 - FOLLOW UP

1. City Council determines budget amounts per category
2. Which Holidays have events / Which do not
3. Additional Holiday Events - List of Holidays/Events
4. Define what the City will provide for partnerships
5. Impact of previous events versus what was contributed



SPECIAL EVENT CATEGORIES

CITY PRODUCED EVENTS - GENERAL FUND BUDGET COUNCIL APPROVED IN BUDGET SEASON

City produced includes budgeting, entertainment acquisition, department coordination, operational and venue planning, turn-key logistics, day of execution load in and out, review, and evaluation.

CITY SUPPORTED EVENTS - IN-KIND SUPPORT IN CITY ASSETS

City-supported events are limited to 501c3 organizations. These organizations focus on raising money and awareness in the community. The support includes planning assistance, capital equipment, budgeted funds for city services (limited to life safety and road closure), and the partnership/volunteer program.

INDEPENDENT EVENTS - NO CITY SUPPORT NEEDED

The definition of independent events differs from other events. Event producers work with the city to permit and rent assets that are made available. The independent event needs no grant or partnership assistance from the city.



CITY PRODUCED EVENTS – GENERAL FUND

SIGNATURE EVENTS

Signature events are recurring events that attract large attendance and highlight holidays, arts, music, sports, and culture. Signature events are what the city is known for.

Cape Bike Night (3)
Red, White, and Boom
Sounds of Jazz and Blues
New Years Eve
Tour de Cape
Cultural Festival
Holiday Boat Parade
Trunk or Treat
Holiday Tree Lighting
Veterans Day Parade
Holiday Reindeer Run
Music and Art Fusion Walk (3)

NEIGHBORHOOD EVENTS

Neighborhood events are recurring events that move around to city parks. These events are mobile and marketed for neighborhood engagement. Neighborhood events bring the local community to the local park.

Movie in the Park (3)
Concerts in the Park (3)

EVENT PROGRAMS

Event programs are held at recreation facilities and provide events on targeted holidays and family engagement activities for the community.

Daddy/Daughter Date Night
Pee Wee Halloween
80's Halloween Dance
Story Time with Mrs. Claus
Breakfast with Santa
Santa Paws
Pet Photos with Santa
Winter Ball
St. Patrick's Day Luck of the Irish Lunch
Flashlight Egg Hunt
Cinco de Mayo Bingo
Mother/Son Night of Fun
Brunch with Mom



CITY SUPPORTED EVENTS

City-supported events are limited to 501c3 organizations. These organizations focus on raising money and awareness in the community. The support includes planning assistance, capital equipment, budgeted funding for city services (limited to life safety and road closure), and the partnership/volunteer program.

1. Brew Festival
2. Chili Cook Off
3. Chamber Holiday Festival of Lights
4. Rotary Art Festival
5. Touch a Truck
6. Taste of The Cape
7. Food Truck Wars
8. Kiwanis Kids Festival
9. Pride Cape Coral
10. Animal Shelter Golf Tournament
11. Freedom 5k
12. Rotary Cardboard Boat Regatta
13. Seahawk Model Plane Air Show
14. Irish Festival
15. Burrowing Owl Festival



CITY INDEPENDENT EVENTS

The definition of independent events differs from other events. Event producers work with the city to permit and rent assets that are made available. The independent event needs no budgeted funds or partnership assistance from the city.

1. Taco Festival
2. Saint Paddy Day Block Party
3. Stone Crab Festival
4. Oktoberfest
5. Cork Soakers Street Dance
6. March in the Park
7. Scope for Hope Color Run 5K
8. LCEC 5K
9. Mercola 5K
10. SCHEA Trolley Events



HOLIDAY EVENTS HAPPENING IN THE CITY

* City Produced Events in red

Halloween

- Trunk or Treat
- Business Trick or Treat Path (SCHEA)
- Drink or Treat Trolley (SCHEA)
- Goblin Run 5K (LCEC)
- Haunted Hike (Gator Mike's)
- Pee Wee Halloween
- 80's Halloween Dance

Veteran's Day

- Veteran's Day Parade
- Iwo Jima Gathering

Thanksgiving

- Turkey Trot (Mercola)
- The Jolly Trolley (SCHEA)

Winter Holidays

- Menorah and Tree Lighting
- Holiday Festival of Lights (Chamber of Commerce)
- Reindeer Family Run & 5K
- Holiday Boat-A-Long
- Pajama Trolley Ride (SCHEA)
- Business Gift or Treat (SCHEA)
- Story Time with Mrs. Claus
- Breakfast with Santa
- Santa Paws- Pet Photos with Santa
- Winter Ball

New Year's Eve

- New Year's Eve at Westin (Westin Resort)
- Potential New Year's Eve in CRA

Valentine's Day

- Valentine's Lunch

St. Patrick's Day

- Irish Trolley Crawl (SCHEA)
- Block Party (Cork Soakers)
- Irish Fest
- St. Patrick's Day Luck of the Irish Lunch

Easter Events

- Flashlight Egg Hunt
- South Cape Business Egg Hunt (SCHEA)

Cinco de Mayo

- Cinco de Mayo Bingo

Mother's Day

- Mother's Day Celebration (Vineyard Church)
- Mother/Son Night of Fun
- Brunch with Mom

Father's Day

- Dadsfest Car Show (Vineyard Church)
- Daddy/Daughter Date Night

4th of July

- Freedom 5K (Chamber of Commerce)
- Red, White, and Brew Trolley Crawl (SCHEA)
- Red, White, and BOOM



NATIONAL HOLIDAYS THAT DO NOT HAVE A SPECIAL EVENT PLANNED

Martin Luther King Day

Presidents Day

Memorial Day – some small ceremonies do take place

Juneteenth Independence Day

Labor Day

Columbus Day



CITY SUPPORTED EVENTS - PARTNERSHIP PROGRAM

Targeted to support 501c3 organizations conducting a community event. This support is limited to City capital assets. The partnership program is designed to create a win/win for City and the partners. The utilization and City capital equipment save 501c3 organizations rental expenditures on needed equipment. The in-kind capital request has not exceeded \$10,000 for any single event.

City Win

1. City receives volunteer support on city produced events
2. City saves OT expense to fill event critical positions
3. Volunteer hours tied to a specific event (new concept)
4. Holiday event support is valued higher
5. City gets recognized in the sponsorship elements

Partner Win

1. Rental Cost savings on average \$2,000 to \$4,000
2. High maintained city assets
3. Increased funding for the supported cause

Volunteer Program is mission critical to successful city produced event - win/win



CITY SUPPORT PARTNERSHIP PROGRAM

City capital assets are provided to City Supported Events via the Partnership Program. These items are also available for rent to City Independent Events.

1. Stage
2. Electrical Distribution Boxes
3. Electrical Distribution HUB
4. 50' Cable
5. 100' Cable
6. Bleachers
7. Electrical Cable Ramp
8. Trash Barrels
9. Bicycle Barricades (Owned by Rotary Club)
10. Trussing
11. Trash bags



MEASURING EVENT IMPACT

The 2016 Parks and Recreation Master Plan survey indicated that having special events is the top priority for residents.

1. Quality of Life Impact

- a. Connects Family and Friends
- b. Create Sense of Community Pride
- c. Promotes Diversity, Inclusion and Community Engagement
- d. Local to National Celebrations

2. Economic Impact

- a. Contributes to tourism in Cape Coral.
- b. Entices spending from visitors and retains local spending that may otherwise leave the area for entertainment.
- c. Increase in tax revenues.
- d. Business community engagement

Thank you





AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number:	B.(3)
Meeting Date:	5/31/2023
Item Type:	DISCUSSION

TITLE:

Protection of Public Water System Ordinance Updates

REQUESTED ACTION:

Staff Direction

SUMMARY EXPLANATION AND BACKGROUND:

In order to protect the City's drinking water system, the City originally adopted Article XIII in 1993. The Ordinance requires backflow prevention devices be installed on all commercial and multi-family buildings. The goal of any water supply is for the water to flow in one direction. Commonly, backflow occurs when:

- A break in the water line
- When a fire hydrant opens up for use
- Changes in pressure in pipes

Since backflow of water can occur for many different reasons, backflow prevention is necessary and is required by Federal and State law.

City staff have historically hired an outside company to manage the Backflow Prevention Program, which requires property owners to submit annual testing and inspection reports conducted by backflow prevention certified professionals hired by the property owner.

The City's contractor that manages the backflow prevention program sends letters to the property owners and keeps a record of which properties are in compliance and those that are not. Often times, the letters are ignored and currently the only enforcement option that is available is to turn off their water service until the property is brought back into compliance.

In order to protect a large drinking water system from backflow contamination such as Cape Coral's we need the option to hire a private company to perform this service for customer's who choose to not be in compliance and would require the City to perform this task at the property owner's expense. Backflow prevention devices are privately owned and maintained and water supply providers are mandated to have a Backflow Prevention Program and submit reports to the Florida Department of Environmental Protection upon request.

Key Ordinance changes:

- Achieve a higher backflow prevention program compliance
- Property owners who don't want to hire a private company to conduct annual testing, reporting and/or make repairs can be conveniently billed by the City over a period of 12-months if needed.
- Customers will retain the right to hire their own licensed contractor.

- Compliance must occur within 45 days after notice or the City will do the inspection, testing and/or repair of the backflow device.
- May eliminate the need to turn-off water service for non-complaint multi-family and commercial businesses.
- Changes name for sending backflow program reports from local health department to the Florida Department of Environmental Protection.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? No
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan? No

Recommendations:

Provide City staff a consensus on moving forward with the proposed ordinance revisions.

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director, 1-239-574-0709

FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:

N/A

1. Will this action result in a Budget Amendment? No

PREPARED BY:

Jeff Pearson, Utilities
Department

Division- Administration

Department- Utilities

ATTACHMENTS:

Description	Type
1. Draft Backflow Prevention Ordinance	Backup Material
2. Backflow Ordinance Presentation	Backup Material

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 19, WATER AND SEWER UTILITIES, ARTICLE XIII, PROTECTION OF PUBLIC WATER SYSTEM, REGARDING THE PROTECTION AGAINST THE BACKFLOW OF WATER INTO THE PUBLIC WATER SYSTEM; PROVIDING FOR TYPE OF PROTECTION; PROVIDING FOR FREQUENCY OF INSPECTION OF PROTECTIVE DEVICE; PROVIDING FOR PROCESS WATERS; PROVIDING FOR MARKING SAFE AND UNSAFE WATER LINES; PROVIDING FOR PENALTIES FOR NON-COMPLIANCE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in order to provide necessary protection for the City's public water supply system, the City Council finds that certain cross-connection inspections and requirements must be implemented to protect the public's health, safety, and welfare; and

WHEREAS, the City Council hereby finds and declares that adoption of this ordinance is necessary, appropriate, and in the best public interest of the citizens of this community.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 19, Water and Sewer Utilities, Article XIII, Protection of Public Water System, is hereby amended as follows:

**ARTICLE XIII:
PROTECTION OF PUBLIC WATER SYSTEM**

...

§ 19-151 – Type of protection.

The protective device required shall depend on the degree of hazard which exists or may occur as tabulated below:

...

- (c) At the service connection on any premise on which there is an auxiliary water supply where cross-connections are known to exist which cannot be presently eliminated, the public water supply system shall be protected by an approved reduced pressure backflow prevention device. A double check valve assembly may be used in lieu of the device if local experience indicates that double check valves are reliably operated and if approved by the water purveyor and ~~local health agency~~ the Florida Department of Environmental Protection.
- (d) At the service connection to any premise on which any material dangerous to health or toxic substance in toxic concentration is or may be handled under pressure, the public water supply shall be protected by an air-gap separation. The air-gap shall be located as close as practicable to the service cock and all piping between the service cock and receiving tank shall be entirely visible. If these conditions cannot reasonably be met, the public water supply shall be protected with either an approved reduced pressure backflow prevention device, or an approved double check valve assembly, providing the alternative is acceptable to both the water purveyor and the ~~local Health~~ Florida Department of Environmental Protection.
- (e) At the service connection to any sewage treatment plant or sewage pumping station the public water supply shall be protected by an air-gap separation. The air-gap shall be located as close as practicable to the service cock and all piping between the service cock and receiving tank shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure backflow protection device, providing this alternative is acceptable to both the water purveyor and ~~local Health~~ the Florida Department of Environmental Protection.

§ 19-152 – Required inspections; Frequency of inspection of protective device.

- (a) The City Utilities Director, or City Utilities Director's designee, is granted the authority to inspect any and all water service connections served by the public water supply, and to take

appropriate action to ensure the integrity of the water system. Duly authorized representatives of the City shall be permitted to enter any structure or property served by a connection to the public water supply system of the City to inspect for actual or potential cross-connections or water quality, to test and inspect backflow prevention devices, to conduct health hazard assessments, to inspect reclaimed water or reuse water systems, and to identify hazards that could contaminate the public water supply system. In order to protect the public water supply system, granting reasonable access to the City and its agents to enter private property for such inspections is a condition of receiving City utility service.

- (a**b**) It shall be the duty of the commercial or multi-family water user on any premise on account of which backflow protective device are installed to ~~have~~ allow the City and its agents to make competent inspections ~~made~~ at least once a year, or more often in those instances where successive inspections indicate repeated failure. These devices shall be repaired, overhauled or replaced at the expense of the water user within 45 calendar days from whenever they are found to be defective. Records of the test, repairs and overhaul shall be kept and made available to the water purveyor and ~~local Health~~ the Florida Department of Environmental Protection.
- (b) ~~Annual inspections shall not be required for single-family or duplex residential service unless required by the Utilities Director. These residential inspections will be performed by the City of Cape Coral or its agents.~~
- (c) Nothing herein shall relieve the water user of the responsibility for conducting, or causing to be conducted, periodic surveys of water use practices on the premises to determine where there are actual or potential cross-connections in the user's system through which contaminants or pollutants could backflow in the public water supply system.

...

§ 19-154 – Process waters.

Potable water pipelines connected to equipment for industrial processes or operations shall be disconnected therefrom if practicable. Where disconnection is not practicable, a suitable backflow prevention device located beyond the last point from which drinking water may be taken shall be provided on the feed line to process piping or equipment. In the event particular process liquid is especially corrosive or apt to prevent reliable action of the backflow prevention device, air-gap separation shall be provided. These devices shall be tested by the ~~water user~~ City or its agents at least once a year, or more often in those instances where successive inspections indicate repeated failure. The device shall be repaired, overhauled or replaced, at the expense of the water user, whenever they are found to be defective. Records of tests, repairs and replacement shall be kept ~~and made available to~~ by the eCity and shall be available upon request to the local Health Florida Department of Environmental Protection and the potable water user.

...

§ 19-158 – Marking safe and unsafe water lines.

....

- (b) In the event of contamination or pollution of the drinking water system due to cross-connection on the premises, the City of Cape Coral Utilities and ~~Health Departments~~ the Florida Department of Environmental Protection shall be promptly advised by the person responsible for the water so that appropriate measures may be taken to overcome the contamination.

§ 19-159 – Penalties for non-compliance.

The ~~eCity Utilities Director, or the City Utilities Director's designee,~~ shall have the authority to immediately discontinue service to any premise where cross-connections or other hazards to the potable water system are found to exist, and shall not again render service to the premises until the hazards are eliminated in accordance with this article. The City and its agents shall have the authority to hire a licensed plumbing contractor to test, inspect, install, and repair all backflow prevention devices that are regulated by this article. Notwithstanding the foregoing, the water user may elect

to hire their own licensed plumbing contractor to make repairs required pursuant to this article. In the event that a property is not brought into compliance by the water user within 45 calendar days of receipt of a notice of non-compliance by the City, the City shall have the authority to make all necessary repairs at the expense of the water user. The City shall have the authority to charge the utility user all costs incurred by the City to bring the property into compliance with the provisions of this article on their monthly water bill over a period of time not to exceed 12 months. Any user who violates any of the provisions of this article or alters, bypasses or renders inoperative any backflow prevention device installed under the provisions of this chapter shall be subject to immediate discontinuance of potable water service. Service shall not again be rendered until the violation or non-compliance has been corrected.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2023.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	CUMMINGS	_____
STEINKE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2023.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
BackflowsOrd.DRAFT-051823



BACKFLOW ORDINANCE MAY 31, 2023 COW MTG

I. Backflow Devices-Required by Law

- I. The EPA holds local water suppliers responsible for maintaining a certain level of purity in the potable water supply
 - a. State regulations and local municipalities require backflow preventers to be installed in most types of commercial and multi-family properties



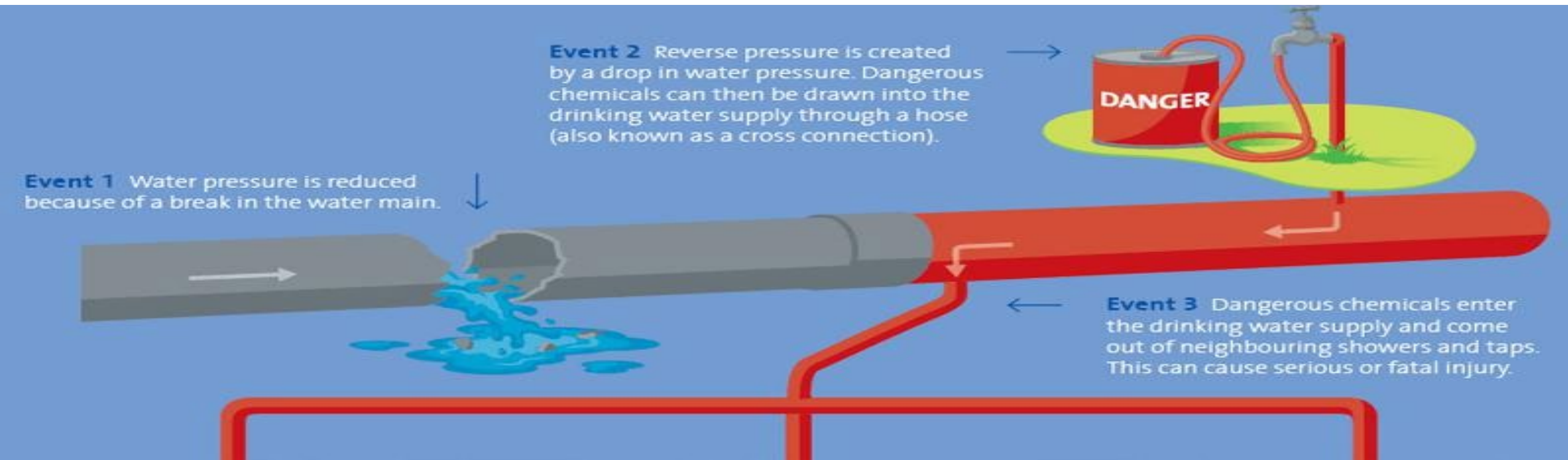
II. Backflow Program Requirements

- II. Backflow prevention program requirements typically include the following:
- a. Plumbing permit for installation, relocation, or replacement of backflow preventers.
 - b. An annual inspection by a certified backflow inspector.
 - c. An annual test of the backflow preventer by a certified backflow tester.
 - d. Timely repair of faulty backflow prevention devices



III. Evidence of Backflow

- III. Where do Cross-Connections Commonly Occur?
- a. Lawn or pool chemicals back-siphoning through a garden hose into plumbing and potentially into the distribution system



III. Evidence of Backflow (cont.)

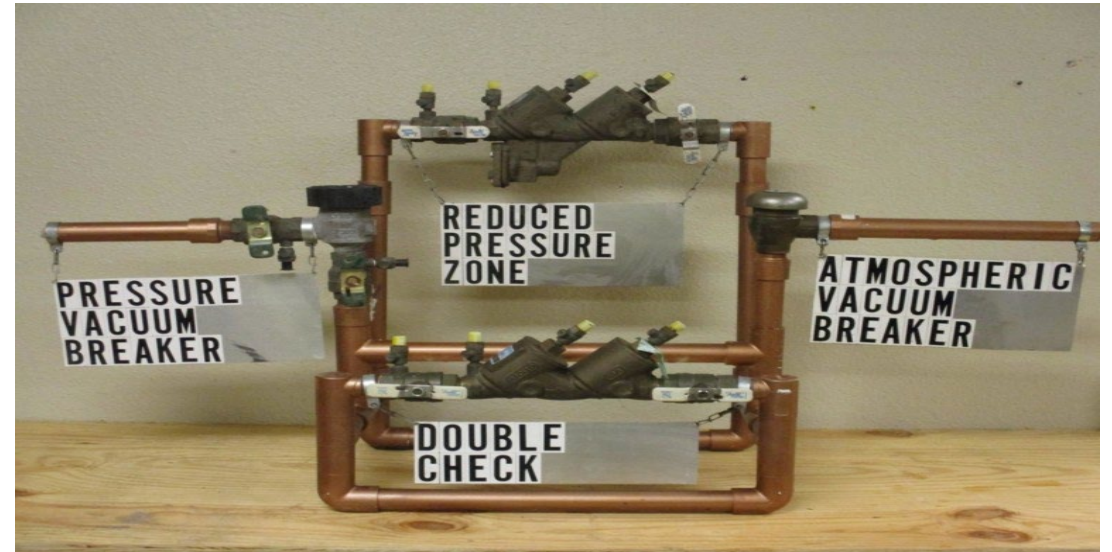
III. Where do Cross-Connections Commonly Occur?

- b. Back-siphonage of “blue water” from toilet into a building’s water supply
- c. Carbonated water from a restaurant’s soda dispenser entering system due to backpressure
- a. Back-siphonage of chemicals from industrial buildings into distribution system mains

IV. Technologies to Prevent Backflow

IV. Types of Backflow Devices:

- a. Air gap preventer
- b. Reduced pressure zone
- c. Double check valve
- d. Pressure vacuum breaker
- e. Atmospheric vacuum breaker



V. Key Ordinance Changes

- a. Achieve backflow prevention compliance
- b. Property owners who do not want to hire a private backflow company to conduct annual testing, reporting and/or make repairs can be conveniently billed by City over a period not to exceed 12 months if needed.
- c. Customers retain right to hire licensed contractor
- d. Compliance must occur within 45 days after notice
- e. May eliminate need to turn-off water service for non-compliant multi-family and commercial businesses
- f. Change name for sending reports from Health Dept. to FDEP

Thank you





AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number:	B.(4)
Meeting Date:	5/31/2023
Item Type:	DISCUSSION

TITLE:

Yacht Club Ballroom Discussion

REQUESTED ACTION:**SUMMARY EXPLANATION AND BACKGROUND:****STRATEGIC PLAN ALIGNMENT:**

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

Recommendations:**SOURCE OF ADDITIONAL INFORMATION:****FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department-

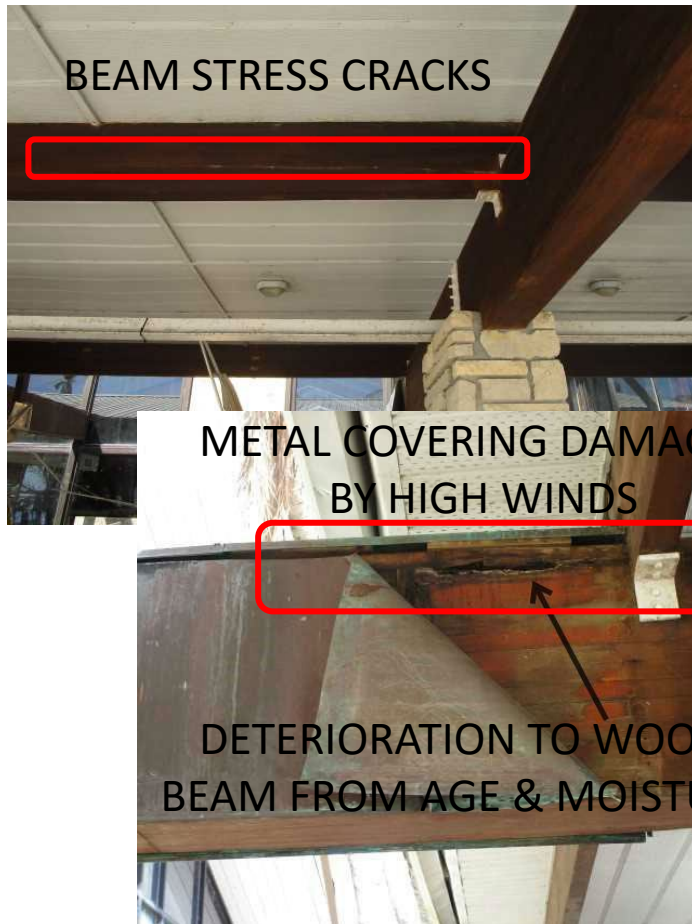
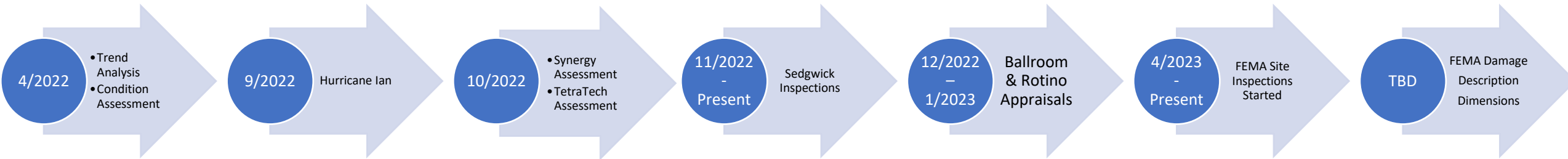
ATTACHMENTS:

Description	Type
<input type="checkbox"/> 1. Public Works -Yacht Club Damage	Backup Material
<input type="checkbox"/> 2. SI SD COW Discussion	Backup Material
<input type="checkbox"/> 2. SI SD COW Updated Presentation (displayed at the meeting)	Presentation
<input type="checkbox"/> 3. COCC 50 Percent Rule vs. Substantial Damage	Backup Material



| YACHT CLUB UPDATE MAY 31, 2023

Yacht Club Complex - Chronology



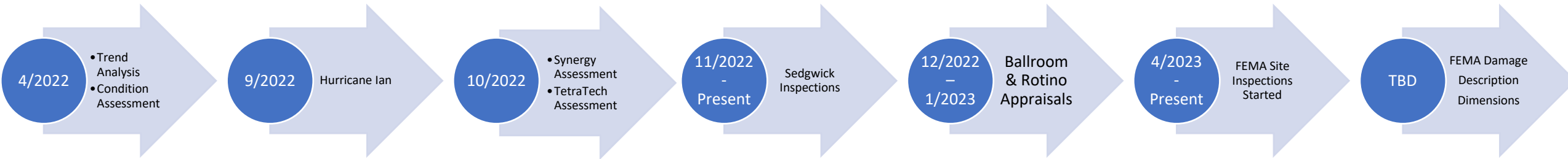
4/2022: Conditional Assessment

- Deferred Maintenance:

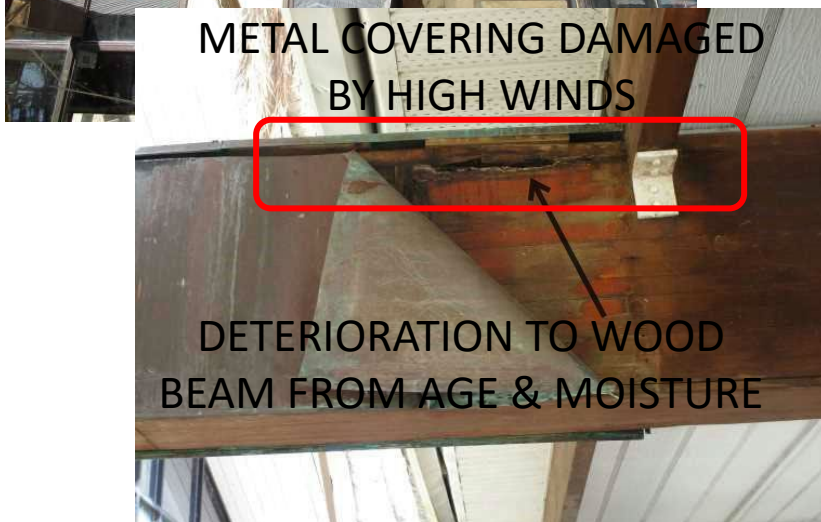
\$2,545,876

Location	System Category	System	Date Installed	Life Cycle	Est. Replace Cost
Yacht Club	Electrical	Branch Wiring	1/1/1987	30	\$84,381.00
Yacht Club	Electrical	Lighting	1/1/1987	20	\$84,381.00
Yacht Club	Electrical	Service & Distribution	1/1/1987	25	\$66,154.70
Yacht Club	Exterior Enclosure	Exterior Doors	1/1/1987	15	\$30,377.16
Yacht Club	Exterior Enclosure	Exterior Walls	1/1/1987	5	\$364,525.92
Yacht Club	Exterior Enclosure	Exterior Windows	1/1/1987	25	\$132,984.46
Yacht Club	HVAC	Distribution Systems	1/1/1987	30	\$60,754.32
Yacht Club	HVAC	Terminal & Package Units	1/1/1987	15	\$268,399.08
Yacht Club	Interior Construction	Walls, Insulation, Millwork	1/1/1987	25	\$225,736.05
Yacht Club	Interior Finishes	Ceiling Finishes	1/1/1987	13	\$178,887.72
Yacht Club	Interior Finishes	Floor Finishes	1/1/1987	12	\$227,491.18
Yacht Club	Interior Finishes	Wall Finishes	1/1/1987	5	\$101,257.20
Yacht Club	Plumbing	Domestic Water Distribution	1/1/1987	30	\$185,503.19
Yacht Club	Plumbing	Plumbing Fixtures	1/1/1987	30	\$53,058.77
Yacht Club	Plumbing	Sanitary Waste	1/1/1987	30	\$106,117.54
Yacht Club	Roofing	Roofing	1/1/1987	20	\$375,866.72
					\$2,545,876

Yacht Club Complex – Chronology (Cont.)



BEAM STRESS CRACKS



METAL COVERING DAMAGED BY HIGH WINDS

DETERIORATION TO WOOD BEAM FROM AGE & MOISTURE

Inspections Performed after Hurricane Ian

10/2022: FMIT/Synergy (Initial/Overall Property) \$3,562,000
 • Ballroom (Range) **\$20,000 - \$100,000**

11/2022: FMIT/Synergy (Adjusted)
 • Ballroom **\$41,000** (<90K Deductible)

2/2023: FMIT/Sedgwick - Ballroom **\$25,000**

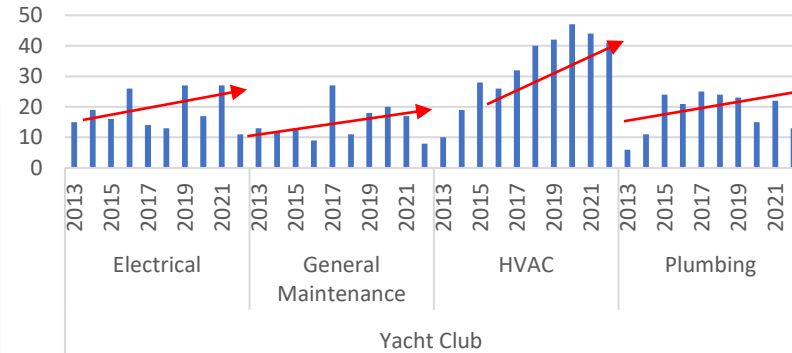
10/2022: TetraTech (Overall Property) \$2,770,000
 • Ballroom **\$320,000**

12/2022: Appraisal (Pre-Hurricane condition) **\$680,000**

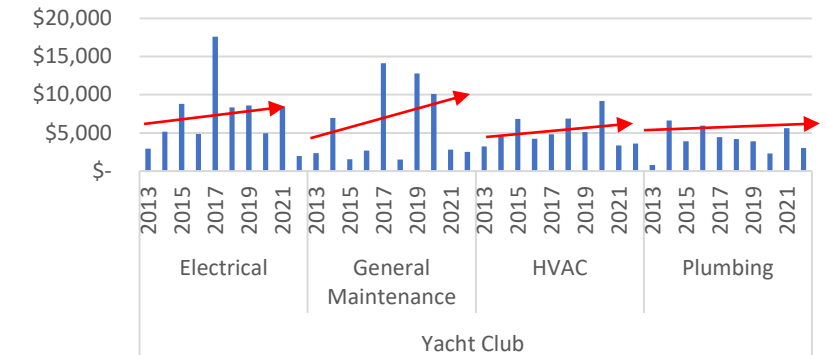
Yacht Club Complex Needed Repairs By The Numbers



Yacht Club Ballroom Top4 Work Orders
(Quantity)



Yacht Club Ballroom Top4 Work Orders
(Cost)



Yacht Club	<5/20/2013	\$ -
	2013	\$ 10,912.16
	2014	\$ 35,004.14
	2015	\$ 29,283.63
	2016	\$ 30,551.84
	2017	\$ 42,557.52
	2018	\$ 46,080.69
	2019	\$ 34,438.86
	2020	\$ 54,640.34
	2021	\$ 54,308.95
	2022	\$ 15,929.56
	2023	\$ 47.00
Yacht Club Total		\$353,754.69

Yacht Club (Ballroom and Rotino Center) Property Appraisals



MAXWELL • HENDRY • SIMMONS
real estate appraisers & consultants



Ordinance 96-22 Sec. 11-2, The City of Cape Coral defines Market Value as “The value of buildings and structures, excluding the land and other improvements on the parcel. Said market value is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect and quality of construction; determined by a qualified independent appraiser prepared within 12 months prior to the date of submittal, or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.”

	Yacht Club Ballroom	Rotino Center
Constructed	1962	1962 / 1995
Area (Gross Square Footage)	13,657 + 2,100 canopy	8,087
Age	60	60 / 27
Effective Age	40	35
Remaining Economic Life	4	5
Reconstruction Value	\$3,234,063	1,610,991
Depreciation	\$679,153	467,187
Market Value (ACV)	\$680,000	\$467,000
Cost/SF	\$237	\$199



Yacht Club Complex Needed Repairs

	Yacht Club Ballroom	Rotino Center
Constructed	1962	1962 / 1995
Area (Gross Square Footage)	13,657 + 2,100 canopy	8,087
Reconstruction Value	\$3,234,063	\$1,610,991
Deferred Maintenance ¹	\$2,545,876	\$181,790

¹Deferred maintenance is defined by *The Dictionary of Real Estate Appraisal, Seventh Edition*, as follows:

Items of wear and tear on a property that should be fixed now to protect the value or income-producing ability of the property, such as a broken window, a dead tree, a leak in the roof, or a faulty roof that must be completely replaced. These items are almost always curable.

Yacht Club Complex National Flood Hazard

National Flood Hazard Layer FIRMette



Thank you





Substantial Improvement/Substantial Damage FEMA Regulations

CAPE CORAL CITY COUNCIL
COMMITTEE OF THE WHOLE
MAY 31, 2023

CITY OF CAPE CORAL SPECIAL FLOOD HAZARD AREA - GEOGRAPHIC COMPARISON -



10/17/2022

SPECIAL FLOOD HAZARD AREAS - GEOGRAPHIC COMPARISON		
	Total Acreage	Proportion of City
City of Cape Coral	76,273.1	
SFHA - Up to 11/17/22	35,946.4	47.13%
SFHA - After 11/17/22	39,404.2	51.66%
Geography added to SFHA	5,563.8	7.29%
Geography removed from SFHA	2,106.0	2.76%

Legend

- SFHA from 2008 FIRM
- Removed from SFHA 2022
- Added to SFHA 2022
- CRA
- River
- Canals

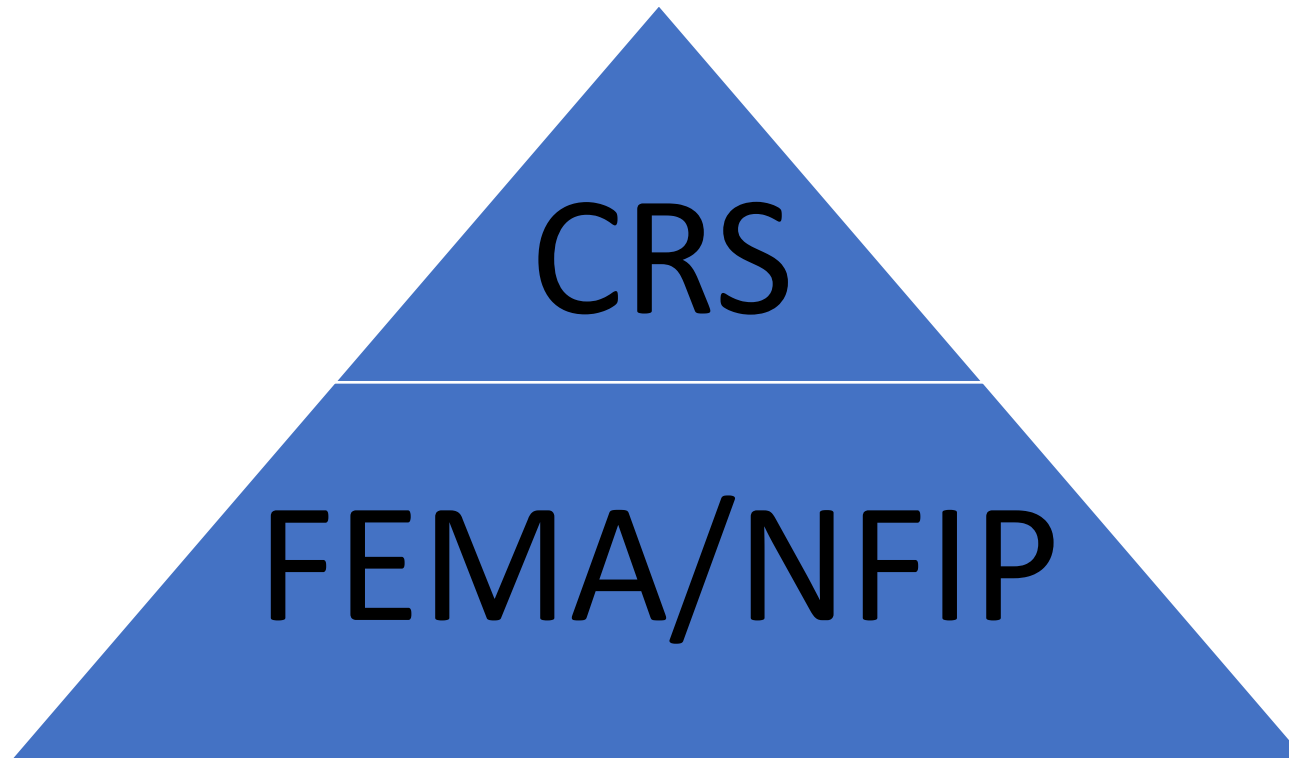
0 0.5 1 2 Miles

N

- Affects properties in the Special Flood Hazard Area (SFHA)
- AE and VE-flood zones



FEMA/NFIP/Cape Coral Regulations How they Interact reference CODES



Substantial Improvement/Substantial Damage

- 1.) SI/SD -- The “FEMA 50% rule”
- 2.) Compares market value of improvements or damages (or both) versus market value of structure
- 3.) Pertains to structures in the SFHA that are below base flood elevation
- 4.) If the cost of improvements/damages meet or exceed 50% of the market value of the structure, the rule applies – structure must be brought into compliance with current floodplain requirements

SI/SD Examples

- 1.) Rehabilitation or remodel of building with or without modifying external dimensions
- 2.) Lateral or vertical additions
- 3.) Foundation repair
- 4.) Restoration or repair of damage of any origin necessary to restore building to pre-damage state (most prevalent trigger recently)

SI/SD for Commercial Buildings

Three options exist to bring commercial buildings into compliance:

- A.) Raise the building, add fill or stem wall construction or deepened mono-slab to bring finished floor elevation to base flood elevation plus one foot (at minimum)
- B.) Raze the building, to be rebuilt at base flood elevation plus one foot (at minimum)
- C.) Dry-floodproof the building - this includes installation of floodproof materials and installing gates or panels for every means of egress, protecting HVAC, etc. City requirement is that these materials be installed to base flood elevation plus two feet

Exemptions and Variances

- 1.) There are historic building exemptions and there is a floodplain variance process
- 2.) Floodplain variances are presented to Hearing Examiner, there are 10 considerations (Section 9.6.7, Land Development Code)
- 3.) The City has not approved any floodplain variances in the past decade; it is possible that the City has never approved a floodplain variance
- 4.) Approving too many floodplain variances could imperil the City's NFIP standing

Exemptions and Variances

Historical Buildings have their own exemption language:

A. Cape Coral's current definition of SI: "Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; and any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure."

B. Second, they can issue variances for historic structures. However, the improvement must not preclude the structures continued designation as a historic structure and must be the minimum necessary to preserve its historic character.

Any Questions?



Substantial Improvement/Substantial Damage FEMA Regulations

CAPE CORAL CITY COUNCIL
COMMITTEE OF THE WHOLE
MAY 31, 2023

CITY OF CAPE CORAL SPECIAL FLOOD HAZARD AREA - GEOGRAPHIC COMPARISON -



10/17/2022

SPECIAL FLOOD HAZARD AREAS - GEOGRAPHIC COMPARISON		
	Total Acreage	Proportion of City
City of Cape Coral	76,273.1	
SFHA - Up to 11/17/22	35,946.4	47.13%
SFHA - After 11/17/22	39,404.2	51.66%
Geography added to SFHA	5,563.8	7.29%
Geography removed from SFHA	2,106.0	2.76%

Legend

- SFHA from 2008 FIRM
- Removed from SFHA 2022
- Added to SFHA 2022
- CRA
- River
- Canals

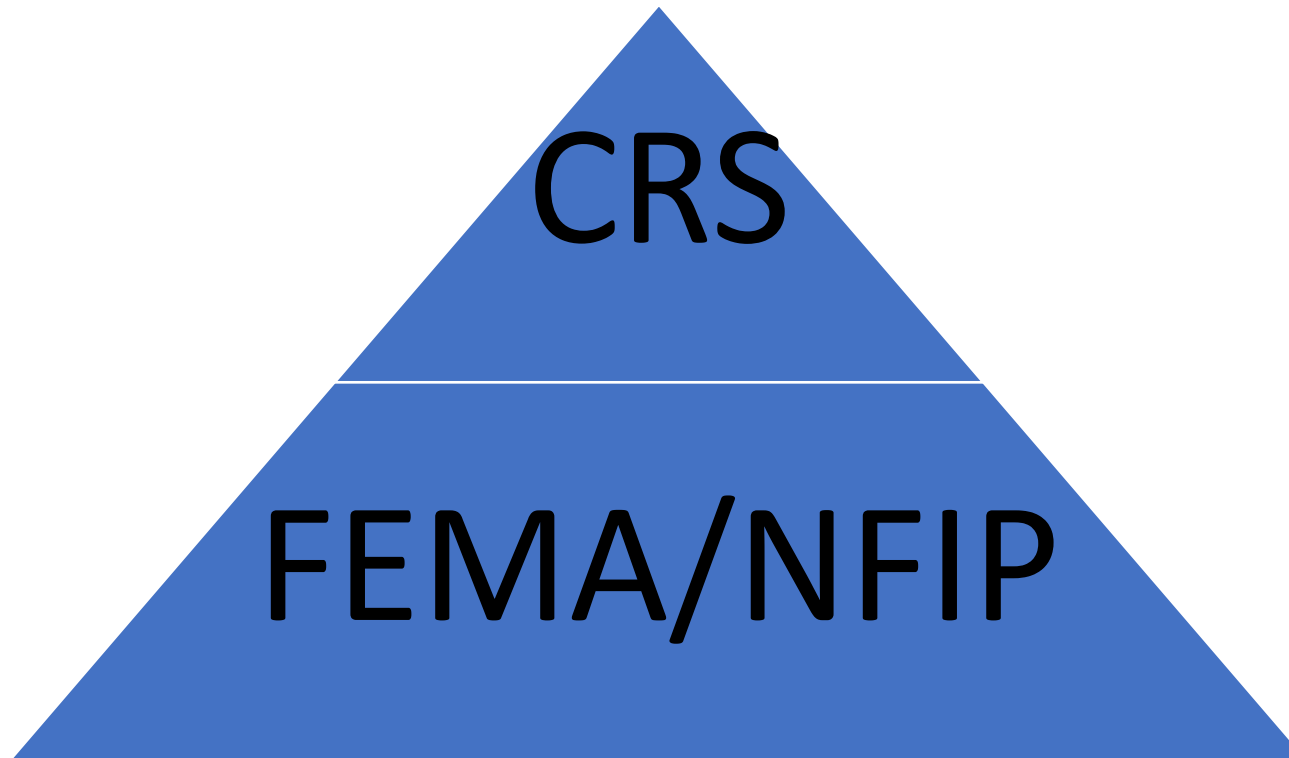
0 0.5 1 2 Miles

N

- Affects properties in the Special Flood Hazard Area (SFHA)
- AE and VE-flood zones



FEMA/NFIP/Cape Coral Regulations How they Interact reference CODES



Substantial Improvement/Substantial Damage

- 1.) SI/SD -- The “FEMA 50% rule”
- 2.) Compares market value of improvements or damages (or both) versus market value of structure
- 3.) Pertains to structures in the SFHA that are below base flood elevation
- 4.) If the cost of improvements/damages meet or exceed 50% of the market value of the structure, the rule applies – structure must be brought into compliance with current floodplain requirements

SI/SD Examples

- 1.) Rehabilitation or remodel of building with or without modifying external dimensions
- 2.) Lateral or vertical additions
- 3.) Foundation repair
- 4.) Restoration or repair of damage of any origin necessary to restore building to pre-damage state (most prevalent trigger recently)

SI/SD for Commercial Buildings

Three options exist to bring commercial buildings into compliance:

- A.) Raise the building, add fill or stem wall construction or deepened mono-slab to bring finished floor elevation to base flood elevation plus one foot (at minimum)
- B.) Raze the building, to be rebuilt at base flood elevation plus one foot (at minimum)
- C.) Dry-floodproof the building - this includes installation of floodproof materials and installing gates or panels for every means of egress, protecting HVAC, etc. City requirement is that these materials be installed to base flood elevation plus two feet

Exemptions and Variances

- 1.) There are historic building exemptions and there is a floodplain variance process
- 2.) The City has not approved any floodplain variances in the past decade; it is possible that the City has never approved a floodplain variance
- 3.) Approving too many floodplain variances could imperil the City's NFIP standing

Any Questions?

Federal Emergency Management Agency (FEMA) 50 Percent Rule Calculation vs. Substantial Damage

City of Cape Coral FEMA Public Assistance Program

May 31, 2023

Hagerty Consulting, Inc.



FEMA's Public Assistance 50 Percent Rule

- ***FEMA's 50 Percent Rule*** is also known by FEMA as ***Repair vs. Replacement***.
- ***Replacement***: A facility may be eligible for replacement when a comparison of the repair cost to the replacement cost is 50 percent or more.
 - The replacement cost is the cost of replacing the facility based on its pre-disaster design and function in accordance with applicable building codes.
 - The cost of replacing the facility is based on new construction costs.
- ***Repair***: If a facility does not meet the 50 Percent Rule, only the repair costs will be eligible. The City may be able to apply the obligated capped repair Grant costs towards a new facility.

Substantial Damage

- ***Substantial Damage*** is met when the cost to repair a facility is 50 percent or more of its market value before the disaster, not including land value.
- The jurisdiction's Floodplain Manager holds the authority to determine if a facility is substantially damaged.
- The City and the Floodplain Manager have the option to prepare documentation to support the substantial damage claim and submit to FEMA for review.
- After FEMA accepts the substantial damage claim, further documentation is required to indicate how the replacement facility will comply with the National Flood Insurance Program (NFIP).
 - FEMA will review for NFIP compliance and for the most reasonable cost-effective and technically feasible measure.

FEMA PA Process for 50 Percent Rule Calculation and Substantial Damage

1

Site Inspection

FEMA conducts an inspection to document hurricane-related damages to a facility.

**This step has been completed for the Yacht Club buildings.*

2

Damage Review

FEMA will prepare a list of damaged elements for each structure inspected. The City will be asked to approve the list of damages.

This list is named by FEMA as the Damage Description and Dimensions (DDD).

3

Scope of Work Review

FEMA prepares a list of work items describing how the damages will be repaired and provides an estimate for the work. The City will need to approve the Scope of Work and estimate.

**The City has requested that FEMA produce the 50 Percent Rule estimate for facilities at the Yacht Club.*

4

Substantial Damage

If a facility does not meet the 50 Percent Rule, FEMA may then process the City's Substantial Damage claim at the City's request.

It is recommended that the City request the Floodplain Manager provide a Substantial Damage Determination **prior to demolishing a facility.*

How long this process takes? Estimated Timeline

Damage Approval

- **1 month:** It is anticipated that FEMA will provide the City with the DDD to review within a month. It is not recommended to make changes to any structures to which this process may be applicable to until all damages have been reviewed for errors and omissions. Potential risks may include:
 - Possible damages may not have been captured at the time of inspection (e.g., electrical damage).
 - FEMA may ask to revisit a facility if there are a numerous corrections to a damage list. A reinspection will send the project back a step.

Scope of Work

Once the damage is approved by the City and Essential Elements of Information have been uploaded to the FEMA's Grants Portal System, FEMA will forward the project to the Central Resource Center (CRC).

- **3 to 6 months:** At the CRC the project's scope of work and estimated cost will be prepared. As the Applicant, the City will review and approve the scope of work and estimate.
- **+ 1 to 2 months after approval:** FEMA and FDEM will take a few more steps before the funding is obligated to the City. *Projects over \$1 million will go to a Congressional Review.*

**At any time, a project may be sent back one or more steps which will add more time to process the project.*

Questions?



HAGERTY

www.hagertyconsulting.com